

## HertzWu, Sara

---

**From:** Eby, Nicole <nicole.eby@dnr.mo.gov>  
**Sent:** Monday, February 10, 2014 9:18 AM  
**To:** Koesterer, Elizabeth  
**Cc:** HertzWu, Sara; kathy.flippin@dnr.mo.gov; Bryant, Evan; Bryant, Evan; Dickerson, Paul; Feeler, Steve; Miller, Marty; Jeffery, Paul  
**Subject:** RE: Self-Disclosure for Ozark Mountain Technologies

All,

I had a voice message from Sara HertzWu this morning. She said that they were holding off on any enforcement actions at the request of the prosecuting attorney and asked that we do the same. She suggested that we discuss in further detail at the task force meeting this week. I saved the voice message so if any of you would like me to forward it just let me know.

We will go ahead and get our thoughts pulled together on this and have tentative violations and penalties for Darren in the event that we can move forward.

Nicole Eby, Unit Chief  
Hazardous Waste Enforcement  
Department of Natural Resources  
573-751-2347  
nicole.eby@dnr.mo.gov

---

**From:** Eby, Nicole  
**Sent:** Wednesday, February 05, 2014 4:25 PM  
**To:** 'Koesterer, Elizabeth'  
**Cc:** HertzWu, Sara; Flippin, Kathy; Bryant, Evan  
**Subject:** RE: Self-Disclosure for Ozark Mountain Technologies

Beth, Sara,

Can you provide some info on what your next steps may be? The AGO that is already handling a water case for DNR is looking for some thoughts on what we'd be looking for in penalties and part of our determination would be based on how you all plan to move forward.

Nicole Eby, Unit Chief  
Hazardous Waste Enforcement  
Department of Natural Resources  
573-751-2347  
[nicole.eby@dnr.mo.gov](mailto:nicole.eby@dnr.mo.gov)

---

**From:** Koesterer, Elizabeth [<mailto:Koesterer.Elizabeth@epa.gov>]  
**Sent:** Wednesday, December 18, 2013 11:11 AM  
**To:** Eby, Nicole  
**Cc:** HertzWu, Sara  
**Subject:** RE: Self-Disclosure for Ozark Mountain Technologies

Nicole – our various programs will be meeting on this issue around the middle of January. Will be able to fill you in a little better as to what our next steps would be after that meeting.

Thanks.

Beth

---

**From:** Eby, Nicole [<mailto:nicole.eby@dnr.mo.gov>]  
**Sent:** Wednesday, December 18, 2013 9:25 AM  
**To:** Koesterer, Elizabeth  
**Subject:** RE: Self-Disclosure for Ozark Mountain Technologies

Beth, have you had a chance to look into this. We have an internal DNR meeting where we plan to discuss what our approach may be so thought I'd check in. If not no big deal, again just checking.

Nicole Eby, Unit Chief  
Hazardous Waste Enforcement  
Department of Natural Resources  
573-751-2347  
[nicole.eby@dnr.mo.gov](mailto:nicole.eby@dnr.mo.gov)

---

**From:** Koesterer, Elizabeth [<mailto:Koesterer.Elizabeth@epa.gov>]  
**Sent:** Friday, December 13, 2013 10:31 AM  
**To:** Eby, Nicole  
**Subject:** RE: Self-Disclosure for Ozark Mountain Technologies

Nicole – let me check with folks here and get back with you. I'll be in the Regional Office on Monday and can check with Don and other then.  
Beth

---

**From:** Eby, Nicole [<mailto:nicole.eby@dnr.mo.gov>]  
**Sent:** Thursday, December 12, 2013 12:46 PM  
**To:** Koesterer, Elizabeth  
**Cc:** Bryant, Evan  
**Subject:** FW: Self-Disclosure for Ozark Mountain Technologies

Beth,  
I just wanted to make sure you were aware of this disclosure and let you know Evan will be taking the lead. Let us know if there is anything you need from us or if you already have thoughts on how to proceed.

Nicole Eby, Unit Chief  
Hazardous Waste Enforcement  
Department of Natural Resources  
573-751-2347  
[nicole.eby@dnr.mo.gov](mailto:nicole.eby@dnr.mo.gov)

---

**From:** Bybee, Darcy  
**Sent:** Thursday, December 12, 2013 12:36 PM  
**To:** Eby, Nicole; Flippin, Kathy; Feeler, Steve; Miller, Marty; Dickerson, Paul; Sullivan, Russell; Bryant, Evan  
**Subject:** RE: Self-Disclosure for Ozark Mountain Technologies

All,

The R7 folks are planning to meet on 1/14 and will get back with me on their thoughts on the below. Gary Bertram at R7 will be our contact for the AP portion.

Thanks,  
Darcy

Darcy A. Bybee  
Compliance and Enforcement Section Chief

Air Pollution Control Program  
Missouri Department of Natural Resources  
P.O. Box 176  
Jefferson City, MO 65102-0176  
Phone: (573) 751-6415 Fax: (573) 751-2706

---

**From:** Eby, Nicole  
**Sent:** Thursday, December 12, 2013 10:43 AM  
**To:** Flippin, Kathy; Bybee, Darcy; Feeler, Steve; Miller, Marty; Dickerson, Paul; Sullivan, Russell; Bryant, Evan  
**Subject:** RE: Self-Disclosure for Ozark Mountain Technologies

They sent a separate disclosure letter to EPA at the same time but Evan or I will touch base with Beth. He is going to be our point person for now since he has already had involvement with several facilities in that area and was aware of this one as well.

Nicole Eby, Unit Chief  
Hazardous Waste Enforcement  
Department of Natural Resources  
573-751-2347  
[nicole.eby@dnr.mo.gov](mailto:nicole.eby@dnr.mo.gov)

---

**From:** Flippin, Kathy  
**Sent:** Thursday, December 12, 2013 9:52 AM  
**To:** Eby, Nicole; Bybee, Darcy; Madras, John; Lamb, David; Moore, Kyra; Feeler, Steve; Miller, Marty  
**Cc:** Dickerson, Paul; Sullivan, Russell  
**Subject:** RE: Self-Disclosure for Ozark Mountain Technologies

Thanks all- - Steve and Marty – I'm copying you on this e-mail string—Nicole notes that you'd discussed this briefly at ERB last week. It does not look like the attorneys copied this self disclosure notice to EPA. Nicole – Would you want to check with Beth Koesterer to see if they got anything and if so if they're planning to do anything and let everyone know?

If EPA didn't get anything, I agree that it makes sense to me for this to be coordinated through the AGO since they already have the Water issue. Darcy notes below she is going to be checking with their EPA coordinator...thanks Darcy!

For us, typically a company will send a self disclosure notice to EPA as it is their policy and we never hear about it. In this case, looks like it is in the state's hands.

Steve and Marty – Do you all want to touch base with the AG?

Kathy  
751-1718

---

**From:** Eby, Nicole  
**Sent:** Thursday, December 12, 2013 8:35 AM  
**To:** Bybee, Darcy; Madras, John; Flippin, Kathy; Lamb, David; Moore, Kyra  
**Cc:** Dickerson, Paul; Sullivan, Russell  
**Subject:** RE: Self-Disclosure for Ozark Mountain Technologies

I think this is already on Marty and Steve's radar so it would probably be a good idea to touch base with them. They discussed briefly with each other toward the end of ERB last week.

Nicole Eby, Unit Chief  
Hazardous Waste Enforcement  
Department of Natural Resources

573-751-2347  
[nicole.eby@dnr.mo.gov](mailto:nicole.eby@dnr.mo.gov)

---

**From:** Bybee, Darcy  
**Sent:** Wednesday, December 11, 2013 4:30 PM  
**To:** Madras, John; Flippin, Kathy; Lamb, David; Moore, Kyra; Eby, Nicole  
**Cc:** Dickerson, Paul; Sullivan, Russell  
**Subject:** RE: Self-Disclosure for Ozark Mountain Technologies

Yes, thanks Kathy!

No, the APCP does not necessarily use EPA's policy in this way, but will still take a look at it to evaluate. I think that a coordinated response would be best—will the AGO want to take the lead since they have an open WP case? (We had a somewhat similar situation with an open AGO/LRP case recently)

Also, do you know if EPA is planning enforcement—or if they will want us to take the lead? I am planning to check in with our coordinator tomorrow and can let everyone know...

Thanks,  
Darcy

Darcy A. Bybee  
Compliance and Enforcement Section Chief  
Air Pollution Control Program  
Missouri Department of Natural Resources  
P.O. Box 176  
Jefferson City, MO 65102-0176  
Phone: (573) 751-6415 Fax: (573) 751-2706

---

**From:** Madras, John  
**Sent:** Wednesday, December 11, 2013 4:12 PM  
**To:** Flippin, Kathy; Lamb, David; Moore, Kyra; Eby, Nicole  
**Cc:** Dickerson, Paul; Bybee, Darcy  
**Subject:** RE: Self-Disclosure for Ozark Mountain Technologies

Thanks Kathy. This has already been under enforcement and referred to AGO for clean water matters, so the self-disclosure really doesn't change that much. The drinking water issues are between the city and the facility, with the department overseeing the city's operations as it is the public water supply.

---

**From:** Flippin, Kathy  
**Sent:** Wednesday, December 11, 2013 4:06 PM  
**To:** Lamb, David; Moore, Kyra; Madras, John; Eby, Nicole  
**Cc:** Dickerson, Paul; Bybee, Darcy  
**Subject:** FW: Self-Disclosure for Ozark Mountain Technologies  
**Importance:** High

Thank you Dave –

Kyra and John, I believe you were copied on this too. The Hazardous Waste Program uses EPA's policy on "Incentives for Self-Policing: Discovery, Disclosure, Correction and Prevention of Violations" to evaluate self-disclosure claims such as this to determine what enforcement action to take and if civil penalties are warranted and what those might be depending on the criteria of the policy that are met. Does your program use EPA's policy in the same way?

I was thinking we could do a coordinated response to this? Do you agree?

I'm assigning this to Nicole Eby's Hazardous Waste Enforcement Unit to evaluate using the policy and for coordination with whomever you designate on your staff if you'd like to have a coordinated response.

Nicole – I'm not sure, but the name of this site rings a bell – might have worked with Tom Judge in the past and there may be some file info on the facility.

Kyra and John - I copied Paul and Darcy on this as well for their info.

Thanks everyone for your time.

Kathy Flippin, Chief  
Compliance and Enforcement Section  
Hazardous Waste Program  
573-751-1718

---

**From:** Lamb, David  
**Sent:** Wednesday, December 11, 2013 2:28 PM  
**To:** Flippin, Kathy  
**Subject:** FW: Self-Disclosure for Ozark Mountain Technologies

Kathy - fyi. The hardcopy of this arrived today and is being routed to you.

---

**From:** Wachs, Amy [<mailto:Amy.Wachs@huschblackwell.com>]  
**Sent:** Tuesday, December 03, 2013 4:59 PM  
**To:** Moore, Kyra; Lamb, David; Madras, John  
**Cc:** Miller, Marty  
**Subject:** Self-Disclosure for Ozark Mountain Technologies

Attached please find a self-disclosure for Ozark Mountain Technologies, LLC in Cuba, Missouri. This disclosure is being sent concurrently to the USEPA under its audit policy. Marty Miller requested that I send this disclosure to each of you as the disclosure contains items relating to air, water and waste management compliance. Please feel free to contact me if you have any questions or need additional information.

Best regards,

**Amy L. Wachs**  
Partner

**HUSCH BLACKWELL LLP**  
190 Carondelet Plaza, Suite 600  
St. Louis, MO 63105-3433  
Direct: 314.480.1840  
Fax: 314.480.1505  
[Amy.Wachs@huschblackwell.com](mailto:Amy.Wachs@huschblackwell.com)  
[huschblackwell.com](http://huschblackwell.com)  
[View Bio](#) | [View VCard](#)

<p>Any tax advice contained in or attached to this message or email string is not intended or written to be used, and cannot be used to (i) avoid penalties that may be imposed on any taxpayer under the Internal Revenue Code or (ii) promote, market, or recommend to another any transaction addressed herein.</p>
--